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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/551,970

10/05/2005

Ronald Marcel Tol

NL 030373

3594

24737

7590

09/10/2008

PHILIPS INTELLECTUAL PROPERTY & STANDARDS

P.O. BOX 3001

BRIARCLIFF MANOR, NY 10510

EXAMINER

BAIG, SAHAR A

ART UNIT

PAPER NUMBER

2623

MAIL DATE

DELIVERY MODE

09/10/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/551,970	<b>Applicant(s)</b> TOL ET AL.	
	<b>Examiner</b> SAHAR A. BAIG	<b>Art Unit</b> 2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 05 October 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 October 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 101***

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim 11 rejected under 35 U.S.C. 101 because claim of a computer program is not patentable.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 9, 10, and 11 rejected under 35 U.S.C. 103(a) as being unpatentable over West et al US Patent Publication No. 2003/0110514 in view of Nashida et al. EU Patent Application No. 1161088.

Regarding Claim 1, 9, 10, and 11, West discloses a transmission system **[Fig. 1B; Headend 11]** including: a broadcasting system for broadcasting programmes **[Fig 1B; Items 60, 64, 68, 72]**, a download system including a server for storing content parts of at least some of the broadcast programmes in association with respective content part identifiers **[0028]**;

and a communication system for on demand downloading of programme content parts stored in the server **[0037]**;

a recording system **[PVR 377]** including:

a broadcast receiver for receiving broadcast programmes **[Fig. 2 receiver 218]**,

a download receiver for requesting and receiving content parts from the server **[0036 lines 24-32]**;

a recorder including a storage system for storing received programmes and for playback of stored programmes **[0076]**.

West fails to disclose a controller operative to:

determine whether an instructed recording of a broadcast programme would exceed a predetermined capacity of the recording system for recording and playback of programmes during at least part of a corresponding broadcast period; and if so, instruct the recorder to record content parts of the broadcast programme during a part of the broadcast period in which the capacity is not exceeded; store an identification of a content part of the broadcast programme that earl not be recorded; determine a period in which the capacity of the recorder is not exceeded; instruct the download receiver to download the not recorded content part from the server in the determined period and instruct the recorder to record the downloaded content part in association with the broadcast programme.

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In an analogous art Nashida discloses a system that seeks to provide a program reservation and recording system and a recording substitution system capable of servicing reserved program recording even if no recording is available due to an insufficient capacity in an audience's recording medium. In particular Nashida discloses that if the content is not recorded due to insufficient capacity in the system's storage the headend is notified so that the missed part of the programming can be retrieved [0051]. Therefore it would have been obvious to combine the teachings of West and Nashida to devise a recording system that prevents the failure to record an intended program thereby not causing disappointment and inconvenient to the audience.

4. Claims 2-8, rejected under 35 U.S.C. 103(a) as being unpatentable over West et al US Patent Publication No. 2003/0110514 in view of Nashida et al. EU Patent Application No. 1161088 in view of Rodriguez et al. US Patent Publication No. 2002/0168178.

Regarding Claim 2, the combined system of West and Nashida disclose all of the limitations except a controller operative to, if the task of recording of the broadcast programme would exceed the predetermined capacity, determine at least one conflicting recording or playback task that causes the lack of capacity, and to select which task not to execute during a period of the broadcast in which there is not sufficient capacity. In an analogous art, Rodriguez discloses a

system that includes a memory with logic for receiving and storing media content wherein conflicting playbacks are prioritized and the media given the least priority is deleted to make capacity **[0145]**. Therefore it would have been obvious to combine the teachings of Rodriguez with that of West and Nashida for the benefit of determining priority in media content.

Regarding Claim 3, Rodriguez discloses a transmission system wherein each broadcast programme is associated with a programme identifier, and wherein content parts are stored in the server in associating with a programme identifier; the controller being operative to give priority to halting a recording task involving a broadcast programme stored in the server **[0144]**.

Regarding Claims 4 and 5, West discloses a transmission system wherein each broadcast programme is associated with at least one programme attribute; the controller being operative to give priority to executing a recording task relating to a programme with at least one predetermined programme attribute. And wherein the programme attribute includes at least one of the following: programme category, broadcast channel, programme language, metadata, coding information **[0177 lines 16-25]**.

Regarding Claim 6, West discloses a transmission system wherein the controller is operative to select from conflicting tasks based on a profile of a user of the

recording system **[0086 lines 28-35]**.

Regarding Claim 7, Rodriguez discloses a transmission system wherein the profile includes at least one of the following: preferred programme categories preferred broadcast channels preferred programme language, preference for playback or recording, preferred metadata, preferred coding **[0101 lines 14-17]**.

Regarding Claim 8, Rodriguez discloses a transmission system, wherein the controller is operative to enable a user to select from conflicting tasks through a user interface **[Figure 18]**.

### ***Conclusion***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. It includes Beach et al. US Patent Publication No. 2002/0191954, Watanbe et al. US Patent Publication No. 2002/0081096, and Barton et al US Patent No. 6,233,389.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SAHAR A. BAIG whose telephone number is (571)270-3005. The examiner can normally be reached on 4/5/9.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on 571-272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Chris Kelley/  
Supervisory Patent Examiner, Art  
Unit 2623

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